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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 04.10.2024

PARDEEP SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Goel, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.102 dated 28.07.2024, registered for the offence punishable under Section 108 of BNS, 2023 at Police Station Pasyana, District Patiala.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“This time, a statement of Gurdarshan Singh son of Chand Singh resident of village Channo, Police Station Bhawanigarh District Sangrur aged about 56 years, Mobile No. 88722-75390 written by ASI Gavinder Singh No. 1640/Patiala, Police Station Pasyana, received in the Police Station by the hand of PHG Darshan Singh No. 30167 for registration of case under section 108 of BNS, 2023 against Pardeep Singh son of Hakam Singh, Darshan Kaur wife of Hakam Singh, Hakam Singh son of Baru Singh residents of village Majhi, Police Station Bhawanigarh District Sangrur and Jasvir Kaur wife of Sukhwinder Singh resident of village Gajjumajra, Police Station Pasyana District Patiala, the contents of which are that I would like to state that I am resident of above noted address and I am agriculturist by occupation. I have one son and one daughter. The age of

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elder daughter Kamalpreet Kaur is 32 years, whose marriage was solemnized about 11 years ago with Pardeep Singh son of Hakam Singh resident of village Majhi, Police Station Bhawanigarh District Sangrur, and she has one son out of this wedlock whose age is 10 years. My daughter was being harassed by her husband Pardeep Singh, Mother-in-law Darshan Kaur, Father-in-law Hakam Singh from long time, but we came to know about it later on that her husband is habitual to consume drugs and when my daughter restrained him from consuming drugs, then her Father-in-law, Mother-in-law, Sister-in-Law Jasvir Kaur were abusing her and were beating her. Thereafter her in-laws family also stopped to give her money for her daily use but we kept on giving money to our daughter to save her matrimonial but her husband used to snatch the said money and used the same in purchasing drugs. Later on the above said persons started beating to my daughter, then we compromised the matter between them through Panchayat and again sent our daughter to her in-laws house as we want to save the matrimonial life of our daughter. Thereafter her in-laws family again started their previous acts to harass her. The Sister-in-Law of my daughter were also instigating her brother and parents against my daughter. On 26.07.2024, we came to know that the in-laws family of my daughter have thrown her out from the house by beating her, later on, my daughter Kamalpreet Kaur has committed suicide by jumping into the Bhakhra canal near Gugga Mairi Pasyana due to the harassments caused by her in-laws family. Therefore we contacted to the divers to search the body of my daughter and on 27.07.2024, the divers informed that we have taken out the dead body of your daughter from Bhakra Canal near village Nassupur, Police Station Sadar Samana, then we reached there and after identified the dead body of our daughter, kept her dead body in the mortuary of Rajindra Hospital Patiala. My daughter Kamalpreet Kaur has committed suicide by jumping into Bhakhra Canal near Gugga Mairi, Police Station Sadar Samana due to the harassment caused by her husband Pardeep Singh son of Hakam Singh, Mother-in-law Darshan Kaur wife of Hakam Singh, Father-in-law Hakam Singh son of Baru Singh residents of village Majhi, Police Station Bhawanigarh District Sangrur and Sister-in-Law Jasvir Kaur wife of Sukhwinder Singh resident of village Gajjumajra, Police Station Pasyana District Patiala and her dead body is lying in the mortuary of Rajindra Hospital Patiala. I have got recorded my statement in the presence of Rajinder Singh son of Chamkaur Singh resident of village Channo, Police Station Bhawanigarh District Sangrur, statement

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got recorded, heard, same is correct. Legal action be taken against her husband Pardeep Singh son of Hakam Singh, Mother-in-law Darshan Kaur wife of Hakam Singh, Father-in-law Hakam Singh son of Baru Singh residents of village Majhi, Police Station Bhawanigarh District Sangrur and Sister-in- Law Jasvir Kaur wife of Sukhwinder Singh resident of village Gajjumajra, Police Station Pasyana District Patiala. Sd/- Gurdarshan Singh supported by Sd/- Rajinder Singh, attested by Sd/- Ravinder Singh, ASI, Police Station Pasyana dated 26.07.2024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.08.2024. Learned counsel for the petitioner has submitted that the deceased had committed suicide on account of routine matrimonial/domestic wrangling. Learned counsel for the petitioner has further submitted that from the material brought forth by the prosecution during the course of investigation, the offence of Section 306 of IPC is not made out against the petitioner. The provision of Section 306 of IPC when *juxtapose* with the provision of Section 108 of BNS, 2023 would reflect that the essence of both the provisions are on similar lines. Learned counsel, in order to buttress his argument, has relied upon the dicta of the judgment of the Hon'ble Supreme Court in the case of ***Mohit Singhal & another vs. The State of Uttarakhand & others***, reported as 2023 INSC 1035, relevant *whereof reads as under:-*

“9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.”

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Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 06.08.2024 whereinafter investigation was carried out & challan was presented on 01.10.2024. Total 15 prosecution witnesses have been cited and culmination of the trial will, but of course, take its own time. The rival contention of the learned counsel for the parties; as to whether the offence of Section 306 of IPC is made out against the present petitioner or not in the factual matrix of the *lis*; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 03.10.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 month and 25 days. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that

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may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression



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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

04.10.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No